

SA2005RF0094

**F.A.I.R.**  
Support, Educate, and Change the Laws  
**Shared Parenting Ballot Initiative**

Aug 15, 2005

Attn: Ms. Trishia Knight  
Initiative Coordinator  
Office of California Attorney General  
1300 I Street  
Sacramento, CA 95814

**RECEIVED**

AUG 17 2005

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**Re: Request for Title and Summary of Proposed Initiative**

Dear Ms Knight:

I am one of the proponents of the proposed initiative statute filed herewith. We request that the Attorney General prepare a title and summary of the chief purpose and points of the proposed measure. Enclosed please find the text of the proposed measure, my residence address at which I am registered to vote, and the filing fee of \$200.

Please forward any inquiries you may have regarding this measure to John Russell,

Sincerely,

JOHN RUSSELL

1 California Family Code

2 3001. "Equal custody" means equal physical custody and joint  
3 legal custody.

4

5 3003. "Joint legal custody" means that both parents shall share  
6 equally the right and the responsibility to make the decisions  
7 relating to the health, education, and welfare of a child.

8

9 3005. "Equal physical custody" means that each of the parents  
10 shall have equal timeshare of physical custody. Equal physical  
11 custody shall be shared by the parents in such a way so as to  
12 assure a child of frequent and continuing contact with both  
13 parents.

14

15 3011. To effectuate the state's policy of assuring that children  
16 have frequent and continuing contact with both parents as set  
17 forth in Section 3020 and in any proceeding described in Section  
18 3021, the court shall provide, to the greatest degree practical,  
19 both parents with equal physical custody to the minor child  
20 unless the court finds clear and convincing evidence, affecting  
21 the burden of proof of the objecting parent, that equal or joint  
22 custody would not be in the best interest of the minor child. In  
23 making a determination of the best interest of the child in a  
24 proceeding described in Section 3021, the court shall, among any  
25 other factors it finds relevant, consider all of the following:

26 (a) The health, safety, and welfare of the child.

27 (b) Any history of abuse by one parent or any other person  
28 seeking custody against any of the following:

29

30

1 (1) Any child to whom he or she is related by blood or  
2 affinity or with whom he or she has had a caretaking  
3 relationship, no matter how temporary.

4 (2) The other parent.

5 (3) A parent, current spouse, or cohabitant, of the parent  
6 or person seeking custody, or a person with whom the  
7 parent or person seeking custody has a dating or  
8 engagement relationship. As a prerequisite to the  
9 consideration of allegations of abuse, the court may  
10 require substantial independent corroboration,  
11 including, but not limited to, written reports by law  
12 enforcement agencies, child protective services or  
13 other social welfare agencies, courts, medical  
14 facilities, or other public agencies or private  
15 nonprofit organizations providing services to victims  
16 of sexual assault or domestic violence. As used in  
17 this subdivision, "abuse against a child" means "child  
18 abuse" as defined in Section 11165.6 of the Penal Code  
19 and abuse against any of the other persons described  
20 in paragraph (2) or (3) means "abuse" as defined in  
21 Section 6203 of this code.

22 (c) The nature and amount of contact with both parents, except  
23 as provided in Section 3046.

24 (d) The habitual or continual illegal use of controlled  
25 substances or habitual or continual abuse of alcohol by  
26 either parent. Before considering these allegations, the  
27 court may first require independent corroboration,  
28 including, but not limited to, written reports from law  
29 enforcement agencies, courts, probation departments,  
30 social welfare agencies, medical facilities,

1 rehabilitation facilities, or other public agencies or  
2 nonprofit organizations providing drug and alcohol abuse  
3 services. As used in this subdivision, "controlled  
4 substances" has the same meaning as defined in the  
5 California Uniform Controlled Substances Act, Division 10  
6 (commencing with Section 11000) of the Health and Safety  
7 Code.

8 (e)

9 (1) Where allegations about a parent pursuant to  
10 subdivision (b) or (d) have been brought to the  
11 attention of the court in the current proceeding, and  
12 the court makes an order for sole or joint custody to  
13 that parent, the court shall state its reasons in  
14 writing or on the record. In these circumstances, the  
15 court shall ensure that any order regarding custody or  
16 visitation is specific as to time, day, place, and  
17 manner of transfer of the child as set forth in  
18 subdivision (b) of Section 6323.

19 (2) The provisions of this subdivision shall not apply if  
20 the parties stipulate in writing or on the record  
21 regarding custody or visitation.

22 3020.

23 (a) The Legislature finds and declares that it is the public  
24 policy of this state to assure that the health, safety,  
25 and welfare of children shall be the court's primary  
26 concern in determining the best interest of children when  
27 making any orders regarding the physical or legal custody  
28 or visitation of children. The Legislature further finds  
29 and declares that the perpetration of child abuse or  
30

1 domestic violence in a household where a child resides is  
2 detrimental to the child.

3 (b) The Legislature finds and declares that it is the public  
4 policy of this state to assure that children have frequent  
5 and continuing contact with both parents after the parents  
6 have separated or dissolved their marriage, or ended their  
7 relationship, and to encourage parents to share the rights  
8 and responsibilities of child rearing in order to effect  
9 this policy, except where the contact would not be in the  
10 best interest of the child, as provided in Section 3011.

11 ~~(c) Where the policies set forth in subdivisions (a) and (b)~~  
12 ~~of this section are in conflict, any court's order~~  
13 ~~regarding physical or legal custody or visitation shall be~~  
14 ~~made in a manner that ensures the health, safety, and~~  
15 ~~welfare of the child and the safety of all family members.~~

16 (c) The voters of California further finds that equal and  
17 joint custody is in the best interest of a minor child,  
18 subject to Section 3011, or where the parents have agreed  
19 to a parenting plan in open court at a hearing for the  
20 purpose of determining the custody of the minor child.

21 (d) To effectuate the policies set forth in subdivision (a)  
22 through (c) efficiently, minimize unnecessary conflict  
23 between the parents, and reduce any undue interference by  
24 government in the fundamental right of parents to raise  
25 their children, the courts shall ensure the health,  
26 safety, and welfare of all family members in custody of  
27 children, subject to Section 3011.

28 3027.1.

29 (a) If a court determines, based on the investigation  
30 described in Section 3027 or other evidence presented to

1 it, that an accusation of child abuse or neglect made  
2 during a child custody proceeding is false and the person  
3 making the accusation knew it to be false at the time the  
4 accusation was made, the court may shall impose reasonable  
5 money sanctions, not to exceed all costs incurred by the  
6 party accused as a direct result of defending the  
7 accusation, and reasonable attorney's fees incurred in  
8 recovering the sanctions, against the person making the  
9 accusation. The court also shall consider a finding of an  
10 intentional false accusation made by a party to be a  
11 change of circumstances of an existing custody order. *The*  
12 *court also shall consider a finding of an intentional*  
13 *false accusation made by a party to be a change of*  
14 *circumstances of an existing custody order. For the*  
15 purposes of this section, "person" includes a witness, a  
16 party, or a party's attorney.

17 (b) On motion by any person requesting sanctions under this  
18 section, the court shall issue its order to show cause why  
19 the requested sanctions should not be imposed. The order  
20 to show cause shall be served on the person against whom  
21 the sanctions are sought and a hearing thereon shall be  
22 scheduled by the court to be conducted at least 15 days  
23 after the order is served.

24 (c) The remedy provided by this section is in addition to any  
25 other remedy provided by law.

26 3040.

27 (a) Custody should be granted in the following order of  
28 preference ~~according~~ subject to the ~~best interest of the~~  
29 ~~child as provided~~ provisions in Sections 3011 and 3020:  
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1 (1) According to the parenting plan stipulated by both  
2 parents.

3 (2) To both parents equally if requested by either parent.

4 (3) To both parents jointly to the greatest degree  
5 practical pursuant to Chapter 4 (commencing with  
6 Section 3080) ~~or to~~).

7 (4) To either parent. In making an order granting custody  
8 to either parent, the court shall consider, among  
9 other factors, which parent is more likely to allow  
10 the child frequent and continuing contact with the  
11 noncustodial parent, consistent with Section 3011 and  
12 3020, and shall not prefer a parent as custodian  
13 because of that parent's sex. The court, in its  
14 discretion, may require the parents to submit to the  
15 court a plan for the implementation of the custody  
16 order.

17 (25) If to neither parent, to the person or persons in  
18 whose home the child has been living in a wholesome  
19 and stable environment.

20 (36) To any other person or persons deemed by the court to  
21 be suitable and able to provide adequate and proper  
22 care and guidance for the child.

23 (b) ~~This section establishes neither~~ Notwithstanding the  
24 preferences stated in subdivision (a) ~~preference nor a~~  
25 ~~presumption for or against joint legal custody, joint~~  
26 ~~physical custody, or sole custody, but allows~~ paragraphs  
27 (1) through (6), the court and the family shall have the  
28 widest discretion to choose a parenting plan that is in  
29 the best interest of the child.  
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1 3080. There is a presumption, ~~affecting the burden of proof,~~  
2 that joint custody is in the best interest of a minor child,  
3 subject to Section 3011, where the parents have agreed to joint  
4 custody or so agree in open court at a hearing for the purpose of  
5 determining the custody of the minor child.

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7 3082. When a request for joint custody is ~~granted or denied,~~ the  
8 court, ~~upon~~ shall include in the request ~~record the specific~~  
9 ~~findings of any party, shall state in the facts it relied upon in~~  
10 ~~making its decision the reasons for granting or denying the~~  
11 ~~request, custody award.~~ A statement that joint physical custody  
12 is, or is not, in the best interest of the child is not  
13 sufficient to satisfy the requirements of this section.

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